

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION

JEWEL WELBORN

PLAINTIFF

VS.

CIVIL ACTION NO. 2:04cv323-KS-JMR

HILDA WATKINS AND STATE FARM  
MUTUAL AUTOMOTIVE INSURANCE  
COMPANY

DEFENDANTS

ORDER

This cause is before the Court on an issue presented by Plaintiff and Defendant State Farm regarding the offset of med-pay payments made by State Farm to its insured Jewel Welborn. It is the position of State Farm that the \$5,000.00 paid to Ms. Welborn pursuant to her medical pay provisions in her policy should be offset from the amount that State Farm owes Ms. Welborn on the uninsured motorist coverage provision.

Both sides have cited authority for their respective positions. However, this Court is obligated to apply the substantive law of this state and this Court finds that the law of this state is that medical payment benefits cannot be used to offset obligations of State Farm pursuant to uninsured coverage. *See Fidelity and Guaranty Underwriters, Inc., v. Earnest*, 699 So. 2d 585, 589 (Miss. 1997) and *Talbot v. State Farm Mutual Automobile Insurance Company*, 291 So. 2d 699, 703 (Miss. 1974).

IT IS THEREFORE ORDERED AND ADJUDGED that the request by State Farm to offset the medical pay payments from its uninsured motorist obligation, be and the same is hereby **denied**.

SO ORDERED AND ADJUDGED on this the 4<sup>th</sup> day of January, 2006.

s/ *Keith Starnett*

UNITED STATES DISTRICT JUDGE